

EXHIBIT 3



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/008,326	11/09/2006	6249876	10414-25	7651

7590 12/21/2006

Bradley J. Bereznak, Esq.
 BLAKELY SOKOLOFF TAYLOR & ZAFMAN, LLP
 12400 Wilshire Blvd.
 Seventh Floor
 Los Angeles, CA 90025

EXAMINER

ART UNIT

PAPER NUMBER

DATE MAILED: 12/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Order Granting / Denying Request For Ex Parte Reexamination	Control No. 90/008,326	Patent Under Reexamination 6249876	
	Examiner Margaret Rubin	Art Unit 3992	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The request for *ex parte* reexamination filed 09 November 2006 has been considered and a determination has been made. An identification of the claims, the references relied upon, and the rationale supporting the determination are attached.

Attachments: a) ☐ PTO-892, b) ☒ PTO/SB/08, c) ☐ Other: _____

1. ☒ The request for *ex parte* reexamination is GRANTED.

RESPONSE TIMES ARE SET AS FOLLOWS:

For Patent Owner's Statement (Optional): TWO MONTHS from the mailing date of this communication (37 CFR 1.530 (b)). **EXTENSIONS OF TIME ARE GOVERNED BY 37 CFR 1.550(c).**

For Requester's Reply (optional): TWO MONTHS from the **date of service** of any timely filed Patent Owner's Statement (37 CFR 1.535). **NO EXTENSION OF THIS TIME PERIOD IS PERMITTED.** If Patent Owner does not file a timely statement under 37 CFR 1.530(b), then no reply by requester is permitted.

2. ☐ The request for *ex parte* reexamination is DENIED.

This decision is not appealable (35 U.S.C. 303(c)). Requester may seek review by petition to the Commissioner under 37 CFR 1.181 within ONE MONTH from the mailing date of this communication (37 CFR 1.515(c)). **EXTENSION OF TIME TO FILE SUCH A PETITION UNDER 37 CFR 1.181 ARE AVAILABLE ONLY BY PETITION TO SUSPEND OR WAIVE THE REGULATIONS UNDER 37 CFR 1.183.**

In due course, a refund under 37 CFR 1.26 (c) will be made to requester:

- a) ☐ by Treasury check or,
b) ☐ by credit to Deposit Account No. _____, or
c) ☐ by credit to a credit card account, unless otherwise notified (35 U.S.C. 303(c)).

Margaret Rubin
Primary Examiner
Art Unit: 3992

cc:Requester (if third party requester)

Application/Control Number: 90/008,326

Page 2

Art Unit: 3992

DECISION GRANTING EX PARTE REEXAMINATION

Summary

Substantial new questions of patentability affecting claims 1 and 17-19 of United States Patent No. 6,249,876 (hereafter "the base patent") are raised by the following references:

- 1.) Acoustic Noise Reduction in Sinusoidal PWM Drives Using A Randomly Modulated Carrier", IEEE Transactions on Power Electronics, Vol. 6, No. 3, p.356-363 (published July 1991) by T.G. Habetler and D. M. Divan (hereafter "Habetler");
- 2.) U.S. Patent No. 4,638,417 to Martin; and
- 3.) "Programmed Pulsewidth Modulated Waveforms for Electromagnetic Interference Mitigation in DC-DC Converters"; IEEE Transactions on Power Electronics, Vol. 8, No.4 (October 1993) by A.C. Wang and S.R. Sanders, pp. 596-605 (hereafter "Wang").

Issues Raised by Requester

Application/Control Number: 90/008,326

Page 3

Art Unit: 3992

Although the merits of the rejections suggested in the request are not decided herein, it is noted that the Requester proposes that the references supplied raise substantial new questions of patentability when viewed in the following manner:

- 1.) Claim 1 is anticipated by Martin;
- 2.) Claims 1, 17, 18, and 19 are anticipated by Habetler; and
- 3.) Claim 1 is anticipated by Wang.

Background

The base patent issued from United States Patent Application No. 09/192,959 (hereafter "the base application"). It is noted that the non-final rejection dated October 16, 2000 states that claims 1-10 included allowable subject matter but reasons therefor were not provided. Further, the Notice of Allowance mailed January 20, 2001 did not include a Statement of Reasons for Allowance.

In summary, the prosecution history does not provide a clear record of the reasons the base patent was allowed.

Application/Control Number: 90/008,326

Page 4

Art Unit: 3992

Issues

Martin

It is agreed that Martin raises an SNQ for claim 1. More particularly, Requester has provided plausible item-matching for a number of limitations of claim 1 on pages 7-10 of the request. In view of the fact that the prosecution history does not provide a clear record of the reasons the base patent was allowed, the teachings presented in the request cannot be judged as merely cumulative.

Such teachings are not cumulative to any written discussion on the record of the teachings of the prior art, were not previously considered nor addressed during a prior examination and the same question of patentability was not the subject of a final holding of invalidity by Federal Courts.

Wang

It is agreed that Wang raises an SNQ for claim 1. More particularly, Requester has provided plausible item-matching for a number of limitations of claim 1 on pages 21-23 of the request. In view of the fact that the prosecution history does

Application/Control Number: 90/008,326

Page 5

Art Unit: 3992

not provide a clear record of the reasons the base patent was allowed, the teachings presented in the request cannot be judged as merely cumulative.

Such teachings are not cumulative to any written discussion on the record of the teachings of the prior art, were not previously considered nor addressed during a prior examination and the same question of patentability was not the subject of a final holding of invalidity by Federal Courts.

Habetler

It is agreed that Habetler raises an SNQ for claim 1, 17, 18, and 19. More particularly, Requester has provided plausible item-matching for a number of limitations of claim 1 and 17 on pages 12-16 of the request. In view of the fact that the prosecution history does not provide a clear record of the reasons the base patent was allowed, the teachings presented in the request cannot be judged as merely cumulative. By raising an SNQ with regard to independent claim 17, an SNQ is also raised for the dependent claims 18-19 which come freighted with the limitations of the claim from which they stem.

Application/Control Number: 90/008,326

Page 6

Art Unit: 3992

Such teachings are not cumulative to any written discussion on the record of the teachings of the prior art, were not previously considered nor addressed during a prior examination and the same question of patentability was not the subject of a final holding of invalidity by Federal Courts.

Conclusion

Since Requester did not request reexamination of claims 2-16 and 20-32 and did not assert the existence of a substantial new question of patentability (SNQ) for such claims, these claims will not be reexamined unless at the discretion of the Office.

Extensions of time under 37 CFR 1.136(a) will not be permitted in these proceedings because the provisions of 37 CFR 1.136 apply only to "an applicant" and not to parties in a reexamination proceeding. Additionally, 35 U.S.C. 305 requires that *ex parte* reexamination proceedings "will be conducted with special dispatch" (37 CFR 1.550(a)). Extensions of time in *ex parte* reexamination proceedings are provided for in 37 CFR 1.550(c).

Application/Control Number: 90/008,326

Page 7

Art Unit: 3992

The patent owner is reminded of the continuing responsibility under 37 CFR 1.565(a) to apprise the Office of any litigation activity, or other prior or concurrent proceeding, involving Patent No 6,249,876 throughout the course of this reexamination proceeding. The third party requester is also reminded of the ability to similarly apprise the Office of any such activity or proceeding throughout the course of this reexamination proceeding. See MPEP §§ 2207, 2282 and 2286.

Please mail any communications to:

Attn: Mail Stop "Ex Parte Reexam"
Central Reexamination Unit
Commissioner for Patents
P. O. Box 1450
Alexandria VA 22313-1450

Please FAX any communications to:
(571) 273-9900
Central Reexamination Unit

Application/Control Number: 90/008,326

Page 8

Art Unit: 3992

Please hand-deliver any communications to:

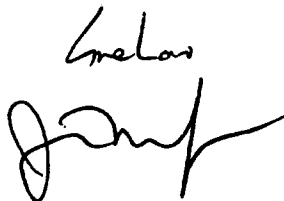
Customer Service Window
Attn: Central Reexamination Unit
Randolph Building, Lobby Level
401 Dulany Street
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the Reexamination Legal Advisor or Examiner, or as to the status of this proceeding, should be directed to the Central Reexamination Unit at telephone number (571) 272-7705.



Margaret Rubin
Primary Examiner
Central Reexamination Unit 3992
(571) 272-1756

conferees:



Please type a plus sign (+) in this box ☒

71338 U.S. PTO

PTO/SB/08A (10-96)

Approved for use through 10/31/05

Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

number.

11/09/06		1449A/PTO		Complete if Known		11/09/06	
INFORMATION DISCLOSURE STATEMENT BY APPLICANT (use as many sheets as necessary)				Patent Number	6,249,876		
				Issue Date	June 19, 2001		
				First Named Inventor	Balu Balakirshnan		
				Group Art Unit	3992		
				Examiner Name	Rubin		
Sheet	1	of	1	Attorney Docket Number	10414-25		

U.S. PATENT DOCUMENTS

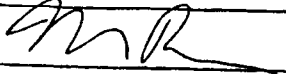
Examiner Initials	Cite No. ¹	U.S. Patent Document		Name of Patentee or Applicant of Cited Document	Date of Patent of Cited Documents MM-DD-YYYY
		Number	Kind Code ²		
MR	AA	4,638,417		Hubert C. Martin, Jr., et al.	January 20, 1987
	AB				

FOREIGN PATENT DOCUMENTS

Examiner Initials	Cite No. ¹	Foreign Patent Document			Name of Patentee or Applicant of Cited Document	Date of Publications of Cited Documents MM-DD-YYYY	T ³
		Office ⁴	Number ⁴	Kind Code ⁵			
	BA						

OTHER PRIOR ART - NON PATENT LITERATURE DOCUMENTS

Examiner Initials	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T ²
MR	CA	Programmed Pulsewidth Modulated Waveforms For Electromagnetic Interference Mitigation In DC-DC Converters", IEEE Transactions on Power Electronics, Vol. 8, No. 4 (published October 1993) by A.C. Wang and S. R. Sanders ("Wang and Sanders") pages 596 - 605	
MR	CB	Acoustic Noise Reduction In Sinusoidal PWM Drives Using A Randomly Modulated Carrier", IEEE Transactions on Power Electronics, Vol. 6, No. 3, p. 356 (published July 1991) by T.G. Habetler and D.M. Divan ("Habetler and Divan") through p.363	
	CC		

Examiner Signature		Date Considered	12/18/06
--------------------	---	-----------------	----------

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

Unique citation designation number. ²See attached Kinds of U.S. Patent Documents. ³Enter Office that issued the document, by the two-letter code (WIPO Standard ST.). ⁴For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent documents. ⁵Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. ⁶Applicant is to place a check mark here if English language Translation is attached.

Burdan Hour Statement: This form is estimated to take 2.0 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.